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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/584,636	04/25/2007	Johannes Geser	1/1615-NS	8151	
²⁸⁵¹⁸ MICHAEL P. N	7590 10/04/201 MORRIS	EXAMINER			
BOEHRINGER INGELHEIM USA CORPORATION 900 RIDGEBURY ROAD RIDGEFIELD, CT 06877-0368			MAUST, TIMOTHY LEWIS		
			ART UNIT	PAPER NUMBER	
			3751		
			NOTIFICATION DATE	DELIVERY MODE	
		10/04/2011	ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO.e-Office.rdg@boehringer-ingelheim.com

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \$\(\) MONTH(\$\(\)) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extension do interrupt be available under the proteoned of 5° PEN 1158(a), into event however, may a legy be threy filed - If NO period to reply is expecified above, the maximum statistics principle will expire \$\(X \) (MONTHS from the mailing date of this communication. - Failure to segon within the sort occanidation of the mailing date of the communication is period by the protect of the state of the communication, seen if linely filed may reduce any actual patent term \$\(\) and \$\(\) STATUTE \$\(\) (MONTHS from the mailing date of this communication, seen if linely filed may reduce any actual patent term \$\(\) and seen adjustment. See \$7 CFR 1.75(0). - Status - Status - Status - Status - Status - This action is FINAL. - 2b)			Application No.	Applicant(s)					
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3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application 6) Other:									

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 28-33, drawn to a method for applying a pharmaceutical fluid, classified in class 141, subclass 2.

II. Claims 34-47, drawn to a closure for a fluid filled container, classified in class 215.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as one that doesn't require a fluid pharmaceutical formulation being pushed manually onto a tubular bottom end of a system in pressure tight manner until the tubular end projects into the fluid in excess pressure of at least 1 mbar in the container, as claimed.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and/or examination burden if restriction were not required because at least the reason given supra.

Application/Control Number: 10/584,636

Art Unit: 3751

Applicant is advised that the reply to this requirement to be complete <u>must</u> include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /TIMOTHY L. MAUST/ whose telephone number is (571)272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TIMOTHY L MAUST/ Primary Examiner Art Unit 3751